

UNITED STATES DISTRICT COURT

for the
Northern District of New York

FILED

FEB 17 2015

AT _____ O'CLOCK _____

Lawrence K. Baerman, Clerk - Plattsburgh

UNITED STATES OF AMERICA

v.

Roy S. Redeye,

Case No. 8:15-M-63 (GLF)

Defendant.

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about February 6, 2015, in the counties of Cortland and Franklin, and other places, in the Northern District of New York the defendant violated:

Code Section

18 U.S.C. §875(c)

Offense Description

Transmission in interstate or foreign commerce of any communication containing any threat to injure the person of another.

This criminal complaint is based on these facts:

See attached affidavit

☒ Continued on the attached sheet.*Complainant's signature*

Special Agent Timothy Losito, HSI

Printed name and title

Sworn to before me and signed in my presence.

Date: February 17, 2015

*Judge's signature*

City and State: Plattsburgh, NY

Hon. Gary L. Favro, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF
CRIMINAL COMPLAINT

I, Timothy Losito, a Special Agent with Homeland Security Investigations, being duly sworn, depose and state as follows:

INTRODUCTION

1. I am a Special Agent with Homeland Security Investigations (HSI). I have been employed as a special agent from April 2002 to the present. I am currently assigned to the Office of the Resident Agent in Charge, Massena, New York. I am a certified Computer Forensics Agent.

2. I am an investigative or law enforcement officer of the United States within the meaning of 18 U.S.C. §2510(7), am empowered by law to conduct investigations and to make arrests for federal offenses including Title 18 offenses enumerated in 18 U.S.C. §2516. I have also been the affiant for and participated in the execution of federal search warrants.

3. This affidavit is made in support of a criminal complaint charging Roy S. REDEYE with violation of 18 U.S.C. §875(c) (transmission in interstate or foreign commerce of any communication containing any threat to injure the person of another).

4. The statements in this affidavit are based in part on information developed by your affiant and on my investigation of this matter, including admissions made by the defendant Roy S. REDEYE, the preliminary results of a consent search on February 10, 2015, of an electronic device possessed by the defendant, and information I learned through speaking with other law enforcement officers. I have set forth only those facts that I believe are necessary to establish probable cause to believe that REDEYE has committed violations of 18 U.S.C. §875(c).

THE INVESTIGATION

5. On February 8, 2014, the Saint Regis Mohawk Tribal Police Department (SRMTPD) at Hogansburg, New York, issued an Officer Safety Bulletin to the North Country New York Law Enforcement Community pertaining to a threat issued over the Internet by the defendant to kill three SRMTPD officers. The threat was made by a Facebook posting on or about February 6, 2015, on an account or page identified as "Roy Redeye." The Office Safety Bulletin urged law enforcement to use extreme caution when dealing with REDEYE as he had an active arrest warrant and had been arrested on the Akwesasne Territory numerous times. The bulletin described the threats contained in paragraph 8 and photographs of Redeye brandishing a switchblade knife.

6. Facebook is an online social media platform that allows users to communicate with multiple individuals domestically and internationally via specific private accounts utilized over the Internet. The messages sent by one person can be seen by other users designated as "friends." Facebook "friends" can reply with comments or pictures to the comments posted by others sharing the same online platform. Facebook is a private company operating out of Menlo Park, California, outside of the State of New York. Accordingly, the use of the Facebook social media platform occurs by sharing data in electronic format which crosses interstate lines.

7. On February 9, 2015, Special Agent Juan J. Adames contacted SRMTPD Investigator Tina Sunday to inquire about the details of the threat posted on Facebook by REDEYE. Investigator Sunday stated that SRMTPD was on heightened security status and considered the threats as real, in part due to their institutional knowledge of REDEYE'S violent criminal history. Two SRMTPD officers were specifically named in the threats and a third was referenced by association with a named officer. On February 14, 2015, Special Agent Adames

interviewed one of the named officers. Two of his family members were Facebook "friends" with REDEYE and received his postings of threats to kill three SRMTPD officers, including him. The family member showed REDEYE'S postings to the named SRMTPD officer, who captured the Facebook postings and shared them with his management, thus alerting management and other officers as to the threats to the police and individual officers.

8. SRMTPD Investigator Sunday provided printed copies of the REDEYE Facebook page postings to Special Agent Adames. The postings bear both REDEYE'S name and images of his face. The images show REDEYE holding a double-edged switchblade knife annexed to comments made by him in which he stated the following:

"I anit scarde to die are u"

"Kill pigs fuck em"

"Get DAT tribal swamp kill him

"And his Partner"

"Im gonna home and waste pigs"

"Oi any scared ar e wreu"

"Warriors Standupn"

"I want belso Herne deadt"

"Kill pigs fuck em"

"I anit scared to die are u."

"Swamp" refers to SRMTPD Officer Ronald Swamp and "Herne" refers to SRMTPD Sgt. Belson Herne. Both are currently employed as sworn SRMTPD Officers.

9. On February 9, 2015, Special Agent Adames discovered the existence of an outstanding arrest warrant against REDEYE issued on or about May 29, 2014, by the Bombay

Justice Court, County of Franklin, in the State of New York. Agent Adames obtained a copy of the arrest warrant from the Franklin County Probation Office. The warrant was identified with Docket No: 12100046 and ordered any police officer in the State of New York to arrest and deliver REDEYE before the Bombay Justice Court or any other Criminal Court within the State of New York.

10. Special Agent Adames' research of REDEYE'S criminal history revealed that REDEYE had been arrested on multiple occasions and locations throughout the State of New York on misdemeanor and felony charges related to crimes of violence including harassment, menacing, criminal mischief, larceny, driving while intoxicated, and forgery. REDEYE'S criminal history extends from 1993 to the present which has resulted in multiple encounters with law enforcement.

11. Special Agent Adames was able to find REDEYE'S Facebook page on the Internet and noticed that it was open for view by the general public. That is, postings made by REDEYE could be seen by anyone without the necessity of being his Facebook "friend" or other special law enforcement access protocol. Agent Adames noticed other postings made or shared by REDEYE, some of which called to retaliate against police officers and to engage in violence. Agent Adames did not find the February 6, 2014 postings by REDEYE specific to SRMTPD Officers Swamp and Herne.

12. On February 10, 2015, Special Agent Adames and I travelled to Cortland, New York, where REDEYE was believed to reside according to comments and pictures posted by REDEYE. Agent Adames confirmed that REDEYE'S current residential address was at 84 Pomeroy Street, Cortland, NY 13045.

13. The HSI agents met with members of the Cortland Police Department and explained the absconded and wanted status of REDEYE, and provided copies of the arrest warrant issued by the Bombay Justice Court. At approximately 9:30 a.m., Cortland Police Department officers went to REDEYE'S residence and he greeted them at the door. Without incident, the officers arrested REDEYE on the Franklin County arrest warrant.

14. On February 10, 2015, at approximately 9:40 a.m., Special Agent Adames and I were granted access to REDEYE. Agent Adames read and explained Miranda warnings to REDEYE in the English language. At approximately 9:48 a.m., REDEYE signed a Waiver of Rights agreeing to be interviewed by Agents Adames and me. Both the Miranda warning and waiver of rights were videotaped.

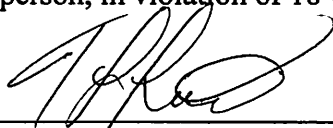
15. During the interview, REDEYE admitted having posted death threat messages in his Facebook account against the three SRMTPD police officers. REDEYE further admitted having placed a direct threat message against Sergeant Belson Herne. He stated that he tried to delete the messages from his Facebook account because he felt he would get in trouble. When asked about the threats made against police officer Ronald Swamp, REDEYE initially denied having made them but admitted having posted them and a threat against a third officer when agents confronted him with the documentary evidence of the posting. One or more of these police officers were involved in one or more prior arrests of REDEYE which he stated was a motive to lodge the death threats against them.

16. During the interview, REDEYE consented to a police search of his bedroom and belongings located at 84 Pomeroy Street, Cortland, NY 13045. REDEYE also consented verbally and in writing to an HSI forensic search of his computer and other electronic devices in his possession.

17. Preliminary forensic review of images stored inside a tablet-type computer found in REDEYE'S bedroom found pictures similar to those observed in REDEYE'S Facebook postings. Officers also found and seized a double-edged switchblade knife with similar characteristics to the one seen in REDEYE'S threatening postings secreted under a table in his residence.

CONCLUSION

18. Based on the foregoing, there is probable cause to conclude that Roy S. REDEYE a/k/a Roy REDEYE has transmitted by interstate commerce and foreign commerce any communication containing any threat to injure another person, in violation of 18 U.S.C. §875(c).



Special Agent Timothy Losito
Homeland Security Investigations

Sworn and subscribed before me
this 17th day of February, 2015.



HON. GARY L. FAVRO
UNITED STATES MAGISTRATE JUDGE